The opinion in support of the decision being entered today was $\underline{\text{not}}$ written for publication and is $\underline{\text{not}}$ binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte BERNARD DOV GELLER,
MICHAEL JAMES LIBERATORE,
ATTIGANAL NARAYANSWAMY SEERAM,
BARRY JAY THALER
AND
ALY EID FATHY

MAILED

Application 09/430,642

APR 1 2003

PAT. & T.M. OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

ORDER VACATING ORAL HEARING AND ORDER REMANDING TO EXAMINER

The Oral Hearing scheduled for May 6, 2003, at 1:00 p.m., 1225 Jefferson Davis Highway, Crystal Gateway 2, Arlington, VA 22202, has been vacated without prejudice.

An Information Disclosure Statement (IDS) (Paper No. 21) was filed on March 4, 2003. This was followed by a Request to Reschedule Oral Hearing (Paper No. 22) filed on March 27, 2003.

Appeal No. 2002-2083 Application No. 09/420,642

There is no indication in the record that the IDS was considered according to the criteria set forth in 37 CFR §§ 1.97 and 1.98. A communication notifying applicants of the Primary Examiner's decision is required. See Manual of Patent Examining Procedure (MPEP) § 609(c) (8th Ed., Aug. 2001).

Accordingly, the Request to Reschedule is dismissed as moot, and it is

ORDERED that the application is remanded to the Examiner for consideration of the IDS (Paper No. 21, filed March 4, 2003), appropriate notification to applicants of the action taken, and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS

SHAW

Program and Resource Administrator

(703) 308-9797

DMS:svt

Appeal No. 2002-2083 Application No. 09/420,642

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